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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Zicker, S.C. *et al.*

NOV 02

Serial No.: 09/978,132

TECH CENTER 1600/2900

Filed: October 16, 2001

Title: ANTIOXIDANT CONTAINING COMPOSITION AND METHOD

Group Art Unit: 1614

Examiner: P.G. Spivack

Confirmation No.: 3795

Docket No.: 2664H-000100/US

Client Ref.: IR 6562-02

CERTIFICATE OF MAILING

I certify that this paper, together with any attachments thereto, is being deposited with the United States Postal Service with sufficient postage as FIRST CLASS MAIL in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on **October 20, 2004**.

Susan B. Gawlik

October 20, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. §1.181

Applicant received a Notice of Abandonment, mailed September 22, 2004, in the above referenced application. Applicant hereby makes petition under 37 C.F.R. §1.181(a) requesting withdrawal of the holding of abandonment, for reasons set forth below. No fee is believed required in respect of this petition. MPEP §711.03(c), I, first paragraph.

On September 13, 2004, in response to an Office Action mailed on March 11, 2004, Applicant filed a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, together with a petition and fee for extension of time of three months. This RCE was thus timely filed to avoid abandonment of the application. The RCE transmittal sheet (copy attached hereto) contained a valid certificate of first class mailing dated September 13, 2004.

On September 17, 2004, the Examiner spoke by telephone to a colleague of the

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undersigned, Mr James Davis, Reg. No. 47,516, who informed the Examiner that an RCE had been filed in the present application. Applicant appreciates the Examiner's courtesy in calling to confirm the status of the application; however, it appears a misunderstanding occurred between Mr Davis and the Examiner, as an Interview Summary (Form PTOL-413) attached to the Notice of Abandonment records as the Substance of Interview that "Mr Davis stated S.N. 09/978132 is abandoned in favor of a continuation."

The record in the present application will show that Serial No. 09/978,132 has not been abandoned. As opposed to having been abandoned in favor of a continuation, an RCE was timely filed to avoid abandonment. No new continuation application has been filed.

Accordingly, withdrawal of the holding of abandonment is requested.

Respectfully submitted,
HARNESS, DICKEY & PIERCE, P.L.C.



James C. Forbes
Agent for Applicant
Reg. No. 39,457
Tel. 847-412-6350

Attachments

Copy of RCE transmittal sheet dated September 13, 2004